

Staff  
Summary  
Report



To: Mayor & City Council  
Through: City Manager

Agenda Item Number: 32  
Meeting Date: 3/22/01

**SUBJECT:** INTERGOVERNMENTAL AGREEMENTS WITH THE CITY OF PHOENIX FOR  
FEDERAL TRANSIT CAPITAL GRANTS FOR BUSES

**PREPARED BY:** CARLOS DE LEON, ASSISTANT TRANSIT MANAGER (350-8527)

**REVIEWED BY:** MARY O'CONNOR, TRANSIT MANAGER (350-8819)  
GLENN KEPHART, DEPUTY PUBLIC WORKS MANAGER (350-8205)

**BRIEF:** Authorize the Mayor to sign intergovernmental agreements with the City of Phoenix for federal transit capital grants for bus purchases and associated capital maintenance.

**COMMENTS:** **PUBLIC TRANSIT (1106)** Authorize the Mayor to sign intergovernmental agreements with the City of Phoenix for federal transit capital grants for bus purchases and associated capital maintenance.

**Document Name:** (20010322pwcld02) **Supporting Documents:** Yes

**SUMMARY:** The City of Phoenix is the designated Federal Transit Administration grant recipient for the Phoenix metropolitan region. Each year federal transit grants become available through the City of Phoenix for bus purchases and other capital expenditures. Grant agreements AZ-90-X054 and AZ-03-0036 between the City of Phoenix and City of Tempe would provide Tempe with the following federal funds:

- \$6,511,101 (83% federal share) for the purchase of nineteen buses.
- \$2,506,760 (94.3% federal share) for the purchase of eight buses.
- \$76,320 (80% federal share) for associated capital maintenance related to buses

**FISCAL NOTE:** Local match for bus purchase and associated capital maintenance were budgeted in the FY 98-99 and 99-00 Transit CIP budgets.

**RECOMMENDATION:** That the City Council authorize the Mayor to sign intergovernmental agreements amendments with the City of Phoenix for federal funds for bus purchases and associated capital maintenance.

Approved by:

Howard C. Hargis  
Public Works Manager

CITY OF PHOENIX, ARIZONA  
PUBLIC TRANSIT DEPARTMENT  
INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF PHOENIX  
AND THE CITY OF TEMPE  
(GRANT NO. AZ-90-X054)

AGREEMENT NO. \_\_\_\_\_

This Agreement made and entered into by and between the CITY OF PHOENIX, a municipal corporation (hereinafter referred to as "PHOENIX") and the CITY OF TEMPE (hereinafter referred to as "TEMPE").

W I T N E S S E T H:

WHEREAS, the City Manager of PHOENIX, is authorized and empowered by provisions of the City Charter to execute contracts; and,

WHEREAS, PHOENIX has Charter authority to provide transit services and Charter and statutory authority to enter into Agreements with other entities within the Phoenix Urban Area to provide transit services [A.R.S. Section 11-951, et seq.; Chapter 2, Section 2, Subsections (c)(i) and (l), Charter of the City of Phoenix, 1969]; and,

WHEREAS, TEMPE has broad Charter and statutory authority to engage in all of the activities and endeavors allowed under laws of the state of Arizona and to enter into intergovernmental agreements (Article I, Section 1.01 and Article I, Section 1.03,, Charter of the City of TEMPE; A.R.S. Section 11-951, et seq.); and,

WHEREAS, the laws of the state of Arizona authorize municipalities to: (1) "engage in any business or enterprise which may be engaged in by persons by virtue of a franchise from the municipal corporation, . . ." [A.R.S. Section 9-511 (A)]; (2) to "appropriate and spend public monies" on activities that "will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of (its) inhabitants . . ." (A.R.S. Section 9-500.11); and, (3) to "be vested with all of the powers of incorporated towns as set forth in title 9, in addition to all powers vested in them pursuant to their respective charters or other provisions of law . . ." (A.R.S. Section 9-499.01); and,

WHEREAS, transit activities are one of the types of activities authorized pursuant to the aforementioned statutory and Charter authority and such powers do not conflict with any of the provisions of TEMPE's charter; and,

WHEREAS, Chapter 53 of 49 United States Code (formerly the Federal Transit Act of 1964, as amended), makes financial aid available to municipalities and local units of government showing a substantial effort toward the preservation, improvement and operation of mass transit systems; and,

WHEREAS, PHOENIX did apply for a Federal Transit Administration (FTA) grant for capital and planning assistance from FTA under project AZ-90-X054; and,

WHEREAS, PHOENIX and TEMPE have been authorized by their respective City Councils to enter into this Agreement; NOW, THEREFORE,

IT IS HEREBY AGREED as follows:

1. Grant Reimbursement. PHOENIX agrees to reimburse TEMPE for the federal share of the purchase of the following:

***(a) Associated Capital Maintenance with reimbursement for expenditures at 80 percent of the total eligible project cost. The total eligible project cost is \$95,400.***

***Reimbursement for the following expenditures shall be at 83 percent of the total eligible project costs (total eligible project costs listed parenthetically) -***

***(b) Seven (7) new 35 foot accessible buses for expansion (\$2,114,700); and***

***(c) Twelve (12) new 30 foot accessible buses for expansion (\$3,840,000).***

***Reimbursement for the following expenditures shall be at 94.3 percent of the total eligible project costs (total eligible project costs listed parenthetically) -***

***(d) Surface Transportation Program (STP) - one (1) 45 foot accessible bus for expansion at a total eligible project cost of \$320,000; and***

***(e) Congestion Mitigation and Air Quality (CMAQ) - seven (7) 40 foot accessible buses for expansion at a total eligible project cost of (\$2,338,282).***

Reimbursement shall not exceed the federal funds allocated to TEMPE, unless approved in writing by PHOENIX. TEMPE shall provide the required local match for these projects. No reimbursements shall be made unless all required reports

TEMPE PASS THROUGH AGREEMENT (AZ-90-X054) (Continued)

have been submitted. To be eligible for reimbursement, projects must be completed and reimbursement must be requested within thirty (30) months of the grant award by the FTA, i.e., August 16<sup>th</sup>, 2000. Funding for uncompleted and unbilled projects will be reassigned at the discretion of Phoenix, as needed to close out the grant.

2. TEMPE shall submit reports and statements or plans as required by PHOENIX or the FTA. Quarterly reports are due on or before the 15th of the month following the end of the quarter, i.e., October 15, January 15, April 15 and July 15; the NTD Report shall be due 150 days after the end of the fiscal year (July 1 – June 30) and all other annual reports are due ninety days after the end of the fiscal year. Drug and Alcohol Reports are due January 31 for the previous calendar year.

REPORT	FREQUENCY	DESCRIPTION
DBE Report	Quarterly	Utilization of Disadvantaged Business Enterprise (DBE)
Grant Status Report	Quarterly	Status of each project by grant number
NTD Report	Annually	Copy for information only
Fixed Assets Status Report	Annually	Inventory of all FTA funded assets
Single Audit Report	Annually	Copy of federally required audit
Drug and Alcohol Reports	Annually	FTA Drug and Alcohol Testing

The reports and required submissions in the above list may be revised, reorganized, deleted or changed as required by FTA guidelines. **All reports must be current before any FTA funds will be disbursed by PHOENIX.**

3. TEMPE shall permit the authorized representatives of PHOENIX, the United States Department of Transportation, and the Controller General of the United States to inspect and audit all data and records relating to this Agreement. PHOENIX's audit shall be at TEMPE's sole cost and expense. All required records shall be maintained for a minimum of three years, after the grant has been formally closed.
4. Both parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and, further, that no member or

delegate to Congress, the City Council or any employee of PHOENIX or TEMPE, has any interest, financial or otherwise, in this Agreement.

5. TEMPE shall fully comply with the Disadvantaged Business Enterprise (DBE) Regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26, and with the FTA-approved program and goals submitted annually by the recipient on behalf of the region. The Transit Civil Rights Officer of the City of Phoenix Public Transit Department and representative(s) of the City of Phoenix Equal Opportunity Department will meet annually with TEMPE to cooperatively determine DBE participation for all FTA assisted projects.
6. In performing the services for which federal funding is provided under this Agreement, TEMPE agrees to comply with all laws, rules, regulations, standards, orders or directives (hereinafter "Laws") applicable to this Agreement, to the services provided pursuant to this Agreement, and to PHOENIX as the designated recipient of FTA funding. The Laws referred to above include federal, state and local laws, and include, but is not limited to those items set forth in Exhibit "B", which exhibit is incorporated by reference.
7. TEMPE understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA) and agrees to comply with the IRCA in the performance of this Agreement.
8. The parties acknowledge that federal funds are being used for the work, services and/or operations provided under this Agreement. In that regard PHOENIX, as the designated grant recipient, is obligated to accept and comply with all of the terms and conditions set forth in the Federal Transit Administration (FTA) Master Grant Agreement. In order for TEMPE to receive funding under this Agreement with PHOENIX, TEMPE is required to similarly accept and comply with all such terms and conditions and TEMPE does hereby specifically agree to be bound thereby. A copy of the Master Grant Agreement has been provided to TEMPE and additional copies are available from PHOENIX. The Master Grant Agreement in effect for FY1999 and dated October 1, 1999, and any subsequent revisions, is, by this reference, incorporated herein as though fully set forth. Further, a summary of some of the terms of the Master Grant Agreement, as set forth its Table of Contents, are attached hereto as Exhibit "A" and are, by this reference, incorporated herein. The items listed in Exhibit "A" are illustrative only and are set forth in the Exhibit for TEMPE's ease of reference; TEMPE is solely responsible for complying with all of the terms and conditions of the Master Grant Agreement and any subsequent revisions whether or not they are set forth in Exhibit "A".

TEMPE PASS THROUGH AGREEMENT (AZ-90-X054) (Continued)

9. Conflicts of Interest. All parties hereto acknowledge that this Agreement is subject to cancellation by either party pursuant to the provisions of A.R.S. Section 38-511.

This Agreement shall be in full force and effect upon approval of the City Councils of PHOENIX and TEMPE, when executed by the duly authorized officials, and when filed with the County Recorder pursuant to A.R.S. Section 11-952(G).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

\_\_\_\_\_.

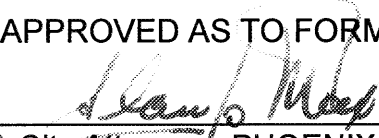

CITY OF PHOENIX, ARIZONA  
Frank Fairbanks, City Manager

By \_\_\_\_\_  
Neal E. Manske  
Interim Public Transit Director

ATTEST:

\_\_\_\_\_  
City Clerk - PHOENIX

APPROVED AS TO FORM:

  
\_\_\_\_\_  
ACTING City Attorney - PHOENIX 

APPROVED BY PHOENIX CITY COUNCIL BY FORMAL ACTION ON OCTOBER 4,  
2000.

CITY OF TEMPE, ARIZONA  
A Municipal Corporation

By \_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk - TEMPE

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney - TEMPE

APPROVED BY TEMPE CITY COUNCIL BY FORMAL ACTION ON: \_\_\_\_\_

**INTERGOVERNMENTAL AGREEMENT DETERMINATION**

In accordance with the requirements of Section 11-952(D), Arizona Revised Statutes, each of the undersigned attorneys acknowledge: (1) that they have reviewed the above Agreement on behalf of their respective clients; and, (2) that, as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

  
\_\_\_\_\_  
Attorney for PHOENIX

\_\_\_\_\_  
Attorney for TEMPE



**UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL TRANSIT ADMINISTRATION**

**MASTER AGREEMENT**

**For Federal Transit Administration Agreements authorized by  
49 U.S.C. §§ 5301 et seq., Title 23, U.S.C. (Highways),  
the National Capital Transportation Act of 1969, as amended,  
the Transportation Equity Act for the 21<sup>st</sup> Century, 23 U.S.C. § 101 note,  
or other Federal enabling legislation**

**FTA MA(6)  
October 1, 1999**

[<http://www.fta.dot.gov/library/legal/agreements/2000/ma.html>]

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**Certifications and Assurances**

Requirements of Categories I - XII are listed below, as referenced in Federal Register/Vol. 64. No. 208/Thursday, October 28, 1999/Notices (pages 58266 through 58274):

- I. Certifications and Assurances required of Each Applicant
- II. Lobbying Certification
- III. Certification Pertaining to Effects on Private Mass Transportation Companies
- IV. Public Hearing Certification for a Project with Substantial Impacts
- V. Certification for the Purchase of Rolling Stock
- VI. Bus Testing Certification
- VII. Charter Service Agreement
- VIII. School Transportation Agreement
- IX. Certification for Demand Responsive service
- X. Substance Abuse Certifications
- XI. Certification Required for Interest and Other Financing Costs
- XII. Certifications and assurances for the Urbanized Area Formula Program, and the Job Access and Reverse Commute Program

CITY OF PHOENIX, ARIZONA  
PUBLIC TRANSIT DEPARTMENT  
INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE CITY OF PHOENIX  
AND THE CITY OF TEMPE  
(GRANT NO. AZ-03-0036)

AGREEMENT NO. \_\_\_\_\_

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W I T N E S S E T H:

WHEREAS, the City Manager of PHOENIX, is authorized and empowered by provisions of the City Charter to execute contracts; and,

WHEREAS, PHOENIX has Charter authority to provide transit services and Charter and statutory authority to enter into Agreements with other entities within the Phoenix Urban Area to provide transit services [A.R.S. Section 11-951, et seq.; Chapter 2, Section 2, Subsections (c)(i) and (l), Charter of the City of Phoenix, 1969]; and,

WHEREAS, TEMPE has broad Charter and statutory authority to engage in all of the activities and endeavors allowed under laws of the state of Arizona and to enter into intergovernmental agreements (Article I, Section 1.01 and Article I, Section 1.03,, Charter of the City of TEMPE; A.R.S. Section 11-951, et seq.); and,

WHEREAS, the laws of the state of Arizona authorize municipalities to: (1) "engage in any business or enterprise which may be engaged in by persons by virtue of a franchise from the municipal corporation, . . ." [A.R.S. Section 9-511 (A)]; (2) to "appropriate and spend public monies" on activities that "will assist in the creation or retention of jobs or will otherwise improve or enhance the economic welfare of (its) inhabitants . . ." (A.R.S. Section 9-500.11); and, (3) to "be vested with all of the powers of incorporated towns as set forth in title 9, in addition to all powers vested in them pursuant to their respective charters or other provisions of law . . ." (A.R.S. Section 9-499.01); and,



WHEREAS, transit activities are one of the types of activities authorized pursuant to the aforementioned statutory and Charter authority and such powers do not conflict with any of the provisions of TEMPE's charter; and,

WHEREAS, Chapter 53 of 49 United States Code (formerly the Federal Transit Act of 1964, as amended), makes financial aid available to municipalities and local units of government showing a substantial effort toward the preservation, improvement and operation of mass transit systems; and,

WHEREAS, PHOENIX did apply for a Federal Transit Administration (FTA) grant for capital assistance from FTA under project AZ-03-0036; and,

WHEREAS, PHOENIX and TEMPE have been authorized by their respective City Councils to enter into this Agreement; NOW, THEREFORE,

IT IS HEREBY AGREED as follows:

1. Grant Reimbursement. PHOENIX agrees to reimburse TEMPE for the federal share of the purchase of:

**Six (6) new 40 foot accessible buses for expansion: The total eligible project cost is \$1,890,000. Reimbursement for expenditures shall be 83 percent of the total eligible project cost,**

Reimbursement shall not exceed the federal funds allocated to TEMPE, unless approved in writing by PHOENIX. TEMPE, shall provide the required local match for these projects. No reimbursements shall be made unless all required reports have been submitted. To be eligible for reimbursement, projects must be completed and reimbursement must be requested within thirty (30) months of the grant award by the FTA, i.e., August 31<sup>st</sup>, 2000. Funding for uncompleted and unbilled projects will be reassigned at the discretion of Phoenix, as needed to close out the grant.

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- TEMPE shall permit the authorized representatives of PHOENIX, the United States Department of Transportation, and the Controller General of the United States to inspect and audit all data and records relating to this Agreement. PHOENIX's audit shall be at TEMPE's sole cost and expense. All required records shall be maintained for a minimum of three years, after the grant has been formally closed.
- Both parties warrant that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and, further, that no member or delegate to Congress, the City Council or any employee of PHOENIX or TEMPE, has any interest, financial or otherwise, in this Agreement.
- TEMPE shall fully comply with the Disadvantaged Business Enterprise (DBE) Regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. TEMPE shall fully comply with the FTA-approved goal and program submitted annually by the recipient on behalf of the region. The Transit Civil Rights Officer of the City of Phoenix Public Transit Department and representative(s) of the City of Phoenix Equal Opportunity Department will meet annually with TEMPE to cooperatively determine DBE participation for all FTA assisted projects.
- In performing the services for which federal funding is provided under this Agreement, TEMPE agrees to comply with all laws, rules, regulations, standards, orders or directives (hereinafter "Laws") applicable to this Agreement, to the services provided pursuant to this Agreement, and to PHOENIX as the designated recipient of FTA funding. The Laws referred to above include

federal, state and local laws, and include, but is not limited to those items set forth in Exhibit "B", which exhibit is incorporated by reference

7. TEMPE understands and acknowledges the applicability of the Immigration Reform and Control Act of 1986 (IRCA) and agrees to comply with the IRCA in the performance of this Agreement.
8. The parties acknowledge that federal funds are being used for the work, services and/or operations provided under this Agreement. In that regard the City of Phoenix, as the designated grant recipient, is obligated to accept and comply with all of the terms and conditions set forth in the Federal Transit Administration (FTA) Master Grant Agreement. In order for TEMPE to receive funding under this Agreement with the City of Phoenix, TEMPE is required to similarly accept and comply with all such terms and conditions and TEMPE does hereby specifically agree to be bound thereby. A copy of the Master Grant Agreement has been provided to TEMPE and additional copies are available from the City of Phoenix. The Master Grant Agreement for FY1999 and any subsequent revisions are, by this reference, incorporated herein as though fully set forth. Further, a summary of some of the terms of the Master Grant Agreement, as set forth its Table of Contents, are attached hereto as Exhibit "A" and are, by this reference, incorporated herein. The items listed in Exhibit "A" are illustrative only and are set forth in the Exhibit for TEMPE's ease of reference; TEMPE is solely responsible for complying with all of the terms and conditions of the Master Grant Agreement and any subsequent revisions whether or not they are set forth in Exhibit "A".
9. Conflicts of Interest. All parties hereto acknowledge that this Agreement is subject to cancellation by either party pursuant to the provisions of A.R.S. Section 38-511.

This Agreement shall be in full force and effect upon approval of the City Councils of PHOENIX and TEMPE, when executed by the duly authorized officials, and when filed with the County Recorder pursuant to A.R.S. Section 11-952(G).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on

\_\_\_\_\_.

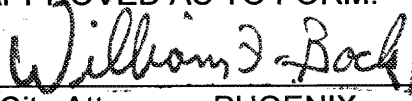
CITY OF PHOENIX, ARIZONA  
Frank Fairbanks, City Manager

By \_\_\_\_\_  
Neal E. Manske  
Interim Public Transit Director

ATTEST:

\_\_\_\_\_  
City Clerk - PHOENIX

APPROVED AS TO FORM:

  
ACTING City Attorney - PHOENIX

APPROVED BY PHOENIX CITY COUNCIL BY FORMAL ACTION ON OCTOBER 4,  
2000.

CITY OF TEMPE, ARIZONA  
A Municipal Corporation

By \_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
City Clerk - TEMPE

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney - TEMPE

APPROVED BY TEMPE CITY COUNCIL BY FORMAL ACTION ON: \_\_\_\_\_

**INTERGOVERNMENTAL AGREEMENT DETERMINATION**

In accordance with the requirements of Section 11-952(D), Arizona Revised Statutes, each of the undersigned attorneys acknowledge: (1) that they have reviewed the above Agreement on behalf of their respective clients; and, (2) that, as to their respective clients only, each attorney has determined that this Agreement is in proper form and is within the powers and authority granted under the laws of the State of Arizona.

  
\_\_\_\_\_  
Attorney for PHOENIX

\_\_\_\_\_  
Attorney for TEMPE

UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
FEDERAL TRANSIT ADMINISTRATION

**MASTER AGREEMENT**

For Federal Transit Administration Agreements authorized by  
49 U.S.C. §§ 5301 *et seq.*, Title 23, U.S.C. (Highways),  
the National Capital Transportation Act of 1969, as amended,  
the Transportation Equity Act for the 21<sup>st</sup> Century, 23 U.S.C. § 101 note,  
or other Federal enabling legislation

FTA MA(6)  
October 1, 1999

[<http://www.fta.dot.gov/library/legal/agreements/2000/ma.html>]

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## **Certifications and Assurances**

Requirements of Categories I - XII are listed below, as referenced in Federal Register/Vol. 64. No. 208/Thursday, October 28, 1999/Notices (pages 58266 through 58274):

- I. Certifications and Assurances required of Each Applicant
- II. Lobbying Certification
- III. Certification Pertaining to Effects on Private Mass Transportation Companies
- IV. Public Hearing Certification for a Project with Substantial Impacts
- V. Certification for the Purchase of Rolling Stock
- VI. Bus Testing Certification
- VII. Charter Service Agreement
- VIII. School Transportation Agreement
- IX. Certification for Demand Responsive service
- X. Substance Abuse Certifications
- XI. Certification Required for Interest and Other Financing Costs
- XII. Certifications and assurances for the Urbanized Area Formula Program, and the Job Access and Reverse Commute Program